



CRS Report for Congress

Iraq: Government Formation and Benchmarks

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Summary

Elections in 2005 produced a permanent constitution and a broad-based but Shiite-led government that has been unwilling or unable to take major steps to reduce Sunni popular resentment and is showing signs of fragmentation. An FY2007 supplemental appropriation (P.L. 110-28) mandated Administration reports by July 15 and September 15, 2007, and a GAO report by September 1, 2007, assessing Iraqi government progress on eighteen “benchmarks” that are intended to promote political reconciliation. See CRS Report RL31339, *Iraq: Post-Saddam Governance and Security*, by Kenneth Katzman.

The current government is the product of a U.S.-led process designed to produce a democratic outcome, although many now believe it produced a sectarian government incapable of reconciling Iraq’s various communities. The process began after about one year of a post-Saddam U.S.-led occupation government, when the United States handed sovereignty to an appointed Iraqi government (June 28, 2004). A government and a constitution were voted on thereafter, as stipulated in a March 8, 2004, Transitional Administrative Law (TAL).

Elections and Constitutional Referendum in 2005

The first election (January 30, 2005) was for a 275-seat transitional National Assembly, provincial assemblies in each of Iraq’s 18 provinces (41 seats each; 51 for Baghdad), and a Kurdistan regional assembly (111 seats). The election system was proportional representation (closed list) — voters chose among “political entities” (a party, a coalition of parties, or individuals). A female candidate occupied every third position on electoral lists in order to ensure 25% female membership. A total of 111 entities were on the national ballot, of which nine were multi-party coalitions. The cost was about \$250 million — \$130 million, funded by international donors including the United States, which paid \$40 million to improve Iraqi election capacity; \$42.5 million for monitoring by Iraqis (international monitoring was limited in all the elections in 2005); and \$40 million for political party development. In this and the December election, Iraqis abroad were eligible to vote. The International Organization for Migration (IOM) ran “out-of-country voting” (OCV) in Australia, Canada, Denmark, France,

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Germany, Iran, Jordan, Sweden, Syria, Turkey, UAE, Britain, Netherlands, and the United States. About 275,000 Iraqi expatriates (Iraqi father) registered, and about 90% voted. OCV cost \$92 million (\$11 million for U.S.-based voting), of which none was U.S. funds.

In all 2005 votes, vehicle traffic was banned, Iraq's borders were closed, and polling centers were guarded primarily by Iraq's security forces (ISF), with U.S. forces as backup. Violence did not disrupt voting. The January election was dominated by the Shiite Islamist "United Iraqi Alliance" (UIA), the Kurds, and a few secular parties. The UIA bloc consisted mainly of the Supreme Council for the Islamic Revolution in Iraq (SCIRI), which in May 2007 changed its name to the Islamic Supreme Council of Iraq (ISCI), and the Da'wa Party. The two main Kurdish parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP) offered a joint list. Interim Prime Minister Iyad al-Allawi filed a six-party "Iraqis List" led by his secular Iraqi National Accord (INA) party. Sunni Arabs (20% of the overall population), perceiving electoral defeat, mostly boycotted and won only 17 seats spread over several lists and very few seats on the provincial councils, even in provinces they dominate. Sunnis won only one seat on Baghdad's 51-seat provincial council. The Sadr faction participated informally in the national elections and mostly stayed out of the provincial elections, leading to domination of the provincial councils by its Shiite rivals. During April and May 2005, the factions formed a national government that U.S. officials said was not sufficiently inclusive of Sunnis, although it had Sunnis as Assembly speaker, deputy president, deputy prime minister, defense minister, and five other ministers. The presidency went to PUK leader Jalal Talabani and Da'wa leader Ibrahim al-Jafari became Prime Minister.

Permanent Constitution and Referendum. The elected Assembly was to draft a constitution by August 15, 2005, to be put to a referendum by October 15, 2005, subject to veto by a two-thirds majority of voters in any three provinces. On May 10, 2005, the Assembly appointed a 55-member drafting committee which included only two Sunni Arabs, prompting Sunni resentment, although 15 Sunnis were later added as committee members (and 10 more as advisors). On August 28, the talks produced a draft that set a December 31, 2007, deadline to resettle Kurds in Kirkuk and to hold a referendum on whether Kirkuk will join the Kurdish region (Article 140); designated Islam "a main source" of legislation and said no law can contradict the "established" provisions of Islam (Article 2);¹ set a 25% electoral goal for women (Article 47); allowed families to choose which courts to use for family issues such as divorce and inheritance (Article 39); made only primary education mandatory (Article 34); and said that the federal supreme court would include Islamic law experts and civil law judges and experts (Article 89). These provisions concerned many women who fear that too much discretion was given to males of their families.

The major disputes were and are centered on the draft's allowing two or more provinces together to form new autonomous "regions" and to allocate oil revenues. Article 117 allowed each "region" to organize internal security forces, which would legitimize the fielding of militias, including the Kurds' *peshmerga* (allowed by the TAL). Article 109 required the central government to distribute oil and gas revenues from "current fields" in proportion to population, and gave "regions" a role in allocating revenues from new energy discoveries. Sunnis opposed the draft on these grounds; Sunni-

¹ [<http://www.washingtonpost.com/wp-dyn/content/article/2005/10/12/AR2005101201450.html>].

dominated areas of Iraq have few oil or gas deposits, although some oil fields might lie in Anbar Province. Article 62 established a “Federation Council,” a second chamber with its size and powers to be determined by subsequent law (not passed to date).

With contentious provisions unresolved, Sunnis registered in large numbers (70%-85%) to try to defeat it, prompting a U.S.-mediated agreement (October 11) providing for a panel to propose amendments within four months after a post-December 15 election government took office (Article 137). The amendments would require a majority Assembly vote of approval and, within another two months, would be put to a referendum under the same rules as the October 15 referendum. However, in the referendum, the Sunni provinces of Anbar and Salahuddin had a 97% and 82% “no” vote, respectively. Mostly Sunni Nineveh province voted 55% “no,” which meant that the constitution was adopted (only two provinces, not three, voted “no” by a two-thirds majority).

December 15, 2005 Elections. In the December 15, 2005, elections for a four year government, a formula was adopted to attract Sunni participation; each province contributed a predetermined number of seats to a “Council of Representatives” (COR). Of the 275-seat body, 230 seats were allocated this way, with 45 “compensatory” seats for entities that would have won additional seats had the constituency been the whole nation. 361 political “entities” registered, of which 19 were multi-party coalition slates. The UIA slate formally included Sadr’s faction as well as other hard line Shiite parties including *Fadilah* (Virtue). Former Prime Minister Allawi’s “Iraqis List” was broader than his January 2005 list, adding several smaller secular parties such as the Communist Party. The Kurdish alliance remained roughly intact.

The major Sunni slate was a three-party “Iraq Consensus Front” led by the Iraq Islamic Party (IIP), which had entered but then withdrew from the January elections. Another major Sunni faction (Saleh al-Mutlak’s National Iraqi Dialogue Front) ran separately. The hardline Muslim Scholars Association (MSA) did not participate, although it did not, as it had in January, call for a Sunni boycott. Violence was minor because Sunni insurgents, supporting greater Sunni representation, facilitated voting. Still, voters chose lists representing their sects and regions, not ideological platforms.

The COR was inaugurated on March 16, and was quickly engulfed in factional wrangling. With nearly two thirds of the COR seats, the UIA and the Kurds continued to dominate, but Kurdish and other opposition caused the UIA to agree to Jafari’s Da’wa deputy, Nuri Kamal al-Maliki, as Prime Minister. On April 22, the COR approved Talabani to continue as president, and selected his two deputies — SICI’s Adel Abd al-Mahdi (incumbent) and Consensus Front/IIP leader Tariq al-Hashimi. Another Front figure, the hardline Mahmoud Mashhadani (National Dialogue Council party), was chosen COR speaker. Maliki won COR majority vote approval of a 37 member cabinet (including himself and two deputy prime ministers) on May 20, 2006. Three key slots (Defense, Interior, and National Security) were not filled permanently until June 8 because of infighting. Kurdish official Barham Salih and Sunni Arab Salam al-Zubaie are deputy prime ministers. Of the 37 posts, there were nine Sunnis; eight Kurds; nineteen Shiites; and one Christian. Four are women.

Iraqi Performance on Benchmarks

In August 2006, the Administration and the Iraqi government agreed on a series of “benchmarks” that, if adopted and implemented, would presumably achieve reconciliation among the major communities. Under Section 1314 of the FY2007 supplemental appropriation (P.L. 110-28), “progress” on eighteen political and security-related benchmarks — as assessed in Administration reports due by July 15 and September 15 — is required for the United States to provide \$1.5 billion in Economic Support Funds (ESF) to the Iraqi government. The president may provide the aid, even if no progress is reported, if he provides written justification. He has exercised that option. P.L. 110-28 also mandated a separate assessment of Iraqi progress by the Comptroller General (GAO), by September 1, 2007, of the degree to which the benchmarks have been achieved, as well as an assessment of the Iraqi security forces (ISF) by an outside commission (headed by ret. Gen James Jones). As shown in the chart below, the three mandated benchmark assessments agree that there has not been substantial movement on the most significant political reconciliation benchmarks, although the Administration reports assert more progress than does GAO. Administration officials say that progress is occurring in reconciliation at the local level and with informal mechanisms that accomplish as much or more than progress on the stated benchmarks.² (*More extensive analysis of the status of Iraqi reconciliation efforts and performance is in CRS Report RL31339.*)

Table 1. Assessments of the Benchmarks

Benchmark	July 12 Administration Report	GAO Report	September 14 Administration Report
1. Forming Constitutional Review Committee and completing constitutional review	satisfactory	unmet	satisfactory
2. Enacting and implementing laws on De-Baathification	unsatisfactory	unmet	satisfactory
3. Enacting and implementing oil laws that ensure equitable distribution of resources	unsatisfactory	unmet	unsatisfactory
4. Enacting and implementing laws to form semi-autonomous regions	satisfactory	partially met	satisfactory
5. Enacting and implementing: (a) a law to establish a higher electoral commission, (b) provincial elections law; (c) a law to specify authorities of provincial bodies, and (d) set a date for provincial elections	satisfactory on (a) and (d); unsatisfactory on the others	overall unmet; (a) has been met	same as July 12
6. Enacting and implementing legislation addressing amnesty for former insurgents	conditions do not allow a rating	unmet	conditions do not allow a rating

² July 12 report [<http://www.whitehouse.gov/nsc/iraq/2007/FinalBenchmarkReport.pdf>]. September 14 report [<http://www.whitehouse.gov/news/releases/2007/09/20070914.pdf>]. GAO report [<http://www.gao.gov/new.items/d071230t.pdf>].

Benchmark	July 12 Administration Report	GAO Report	September 14 Administration Report
7. Enacting and implementing laws on militia disarmament	conditions do not allow rating	unmet	conditions do not allow rating
8. Establishing political, media, economic, and services committee to support U.S. Baghdad “surge”	satisfactory	met	met
9. Providing three trained and ready brigades to support U.S. surge	satisfactory	partially met	satisfactory
10. Providing Iraqi commanders with authorities to make decisions, without political intervention, to pursue all extremists, including Sunni insurgents and Shiite militias	unsatisfactory	unmet	overall mixed. Satisfactory to pursue all extremists, but unsatisfactory on eliminating political intervention
11. Ensuring Iraqi Security Forces (ISF) providing even-handed enforcement of law	unsatisfactory	unmet	overall mixed. Satisfactory on Iraqi military, unsatisfactory on Iraqi police
12. Ensuring that the surge plan in Baghdad will not provide a safe haven for any outlaw, regardless of sectarian affiliation	satisfactory	partially met	satisfactory
13. (a) Reducing sectarian violence and (b) eliminating militia control of local security	Overall mixed. Satisfactory on (a) but unsatisfactory on (b)	unmet	same as July 12
14. Establishing all joint security stations in Baghdad	satisfactory	met	satisfactory
15. Increasing ISF units capable of operating independently	unsatisfactory	unmet	unsatisfactory
16. Ensuring protection of rights of minority parties in Iraqi parliament	satisfactory	met	satisfactory
17. Allocating and spending \$10 billion for reconstruction projects, on an equitable basis	satisfactory	partially met	satisfactory
18. Ensuring that Iraqi authorities are not undermining or making false accusations against ISF members	unsatisfactory	unmet	unsatisfactory

Political Fragmentation. Amid increasing Administration and congressional criticism of Maliki’s failure to achieve reconciliation, splits within the power structure, both between the Shiite and other blocs, and even within the Shiite bloc, have widened to the point where some predict governmental collapse. In April 2007, Moqtada Al Sadr

pulled his five cabinet members out of the government. As of August 1, 2007, the Sunni Consensus Front had pulled its six cabinet members out of government, asserting that Maliki is not committed to political reconciliation. Perhaps sensing Maliki's vulnerability, on August 24, 2007, former Prime Minister Allawi directed his five cabinet ministers to resign; three did so but the others remain in the cabinet. This brings the number of vacant cabinet posts to 15 out of 37 positions. On the other hand, Deputy President Hashimi is still in the government, as is unaffiliated Sunni Abd-al Qadir Jasim al-Mifraji, the Defense Minister. Hashimi signed on to the August 26, 2007 "consensus agreement" – along with Maliki, Talabani, deputy President Adel Abd al-Mahdi (ISCI) and Kurdish regional president Masoud Barzani – to work to pass the de-Baathification law and the oil laws, and for the release of many Sunni detainees. All blocs, including the Consensus Front, have now ended their various 2007 boycotts of the COR, in part to challenge Maliki from the COR, and there is cooperation, such as sharing of oil revenue.

Potentially more significant is the fracturing of the UIA bloc. In March 2007, the Fadilah Party, strong among oil workers and oil security forces in Basra, left the UIA on the grounds that one of its members would not be appointed Minister of Oil. In early September, Sadr, who has split with Maliki over Maliki's refusal to shield Sadrists forces from U.S. security operations, implemented a threat to leave the UIA. This left Maliki with a bare majority of support in the COR – 142 out of 275 seats (UIA plus Kurds).

Table 1. Election Results (January and December 2005)

Slate/Party	Seats (Jan. 05)	Seats (Dec. 05)
UIA (Shiite Islamist). Now 84 seats. ISCI- 29; Da'wa (two factions) - 25; independents - 30. Sadr (29 seats) and Fadilah (15 seats) left bloc in 2007.	140	128
Kurdistan Alliance (PUK and KDP)	75	53
Iraqis List (secular, Allawi); added some mostly Sunni parties for Dec. vote (2 members left the bloc in September 2007, leaving it with 23 seats)	40	25
Iraq Consensus Front (Sunni). Main Sunni bloc; not in Jan. vote	—	44
National Iraqi Dialogue Front (Sunni, Saleh al-Mutlak) Not in Jan. vote	—	11
Kurdistan Islamic Group (Islamist Kurd) (votes with Kurdistan Alliance)	2	5
Iraqi National Congress (Chalabi). Was part of UIA list in Jan. 05 vote	—	0
Iraqis Party (Yawar, Sunni); Part of Allawi list in Dec. vote	5	—
Iraqi Turkomen Front (Turkomen, Kirkuk-based, pro-Turkey)	3	1
National Independent and Elites (Jan)/Risalyun (Message, Dec) pro-Sadr	3	2
People's Union (Communist, non-sectarian); on Allawi list in Dec. vote	2	—
Islamic Action (Shiite Islamist, Karbala)	2	0
National Democratic Alliance (non-sectarian, secular)	1	—
Rafidain National List (Assyrian Christian)	1	1
Liberation and Reconciliation Gathering (Sunni, secular)	1	3
Ummah (Nation) Party. (Secular, Mithal al-Alusi, former INC activist)	0	1
<u>Yazidi list (small Kurdish, heterodox religious minority in northern Iraq)</u>	—	1

Number of polling places: January: 5,200; December: 6,200.

Eligible voters: 14 million in January election; 15 million in October referendum and December.

Turnout: January: 58% (8.5 million votes)/ October: 66% (10 million)/ December: 75% (12 million).